IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMARY SUIT NO.390 OF 2005

Dileep C. Choksi Plaintiff

versus

Amber Dalal Defendant

Mr.P.G.Sabnis for plaintiff

None for defendant

CORAM : S.C.DHARMADHIKARI, J.

DATE : 21st June 2005

PC :

1. Heard Mr.Sabnis for the plaintiff. The summary suit was filed on 19th January 2005. Thereafter the same was registered/admitted on 9th February 2005 as summary suit no.3903 of 2005. The writ of summons was issued by this Court on 21st February 2005 and the same was duly served by the representative/bailiff in the office of Sheriff of Mumbai. He has filed an affidavit proving service of the writ of summons. The writ of summons was dispatched by RPAD at the residential address of the defendant and the acknowledgement due card has been duly signed by

the defendant. Thus, the service is complete and an affidavit placing acknowledgement on record is filed on 16th April 2005. The said affidavit marked "X" for identification.

2. Mr.Sabnis submits that this suit is filed on the basis of dishonoured cheques. The cheques were issued by the defendant admitting liability to pay the amount under the cheques. The same were forwarded and on presentation they were dishonoured. The bank endorsement states that the cheques were returned for insufficient funds. The original cheques with the bank endorsement are placed on record. The plaintiff thereafter issued a demand notice and called upon the defendant to pay the amount under the cheques within 15 days from the receipt of demand notice. The demand notice dated 5th June 2003 was duly received on the next date but neither was the payment made nor any arrangement made to comply with the requisition contained therein. The amount of the cheque is Rs.10.00 lakh and interest thereon from the date of filing of the suit till payment or realisation is claimed @ 18% p.a. under section 80 of the Negotiable Instruments Act, 1881.

3. There is no appearance put in by the defendant nor there is any defence to the claim. The date on the cheques is December 2002 and January 2003. Thus the suit is filed within the period of limitation. The cheques were dishonoured on 27th May 2003. Therefore, the plaintiff is entitled to a decree. Accordingly following order.

4. ORDER :- A) Original documents along with list taken on record and marked "X-1" for identification.

B) There shall be a decree as prayed. Refund of court fee and computation of advocate’s fees as per rules. Drawing up of decree is expedited.

(S.C.DHARMADHIKARI, J.)